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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,196	01/14/2004	Mohinder Singh	CU-3535 BSE	3585
26530	7590	06/12/2006	EXAMINER	
LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604			CRAIG, PAULA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,196

Applicant(s)

SINGH, MOHINDER

Examiner

Paula L. Craig

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1,5 and 10-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. The objections to the drawings under 35 C.F.R. 1.84(l), indicated on the Form PTO-948 included with the prior action mailed October 19, 2005, are maintained for the reasons of record. The lead lines in amended Fig. 2 are not uniformly thick and well defined. In addition, please see the objections to the amended drawings indicated on the enclosed Form PTO-948.
2. Applicant's arguments in the response filed March 30, 2006 with respect to Claims 1 and 5 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

3. Newly submitted Claim 11 is directed to an invention that falls within Species B as set forth in the prior action mailed July 12, 2005. No generic claims are allowable. Accordingly, Claim 11 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: For Claim 1, the specification fails to indicate the bristles

having a first end that is within the dispensing orifice and a second end located outside of and away from the dispensing orifice. Note that on page 5, line 15 of the specification, the orifice is indicated as reference number 26. However, in amended Fig. 2, the bristles do not have an end within the part indicated as orifice 26.

Claim Objections

5. Claims 1, 5, 10, and 12-15 are objected to because of the following informalities: In Claim 1, lines 8-9, and Claim 14, lines 7-8, "from the dispensing orifice from the orifice" should be replaced by "from the dispensing orifice". In Claims 12 and 13, "of piston" and "and threaded piston rod" should be replaced by "of a piston" and "and a threaded piston rod". In Claims 14 and 15, "the piston capable" should be "the piston being capable". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 5, 10, and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, lines 10-11, and Claim 14, line 9, it is not clear whether "an applicator for liquid or gel in the reservoir" is the same as or different from the applicator claimed in line 1 of the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 5, 10, and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,227,739 to Kageyama.

10. For Claims 1, 14, and 15, Kageyama teaches an applicator for dispensing a liquid (Figs. 1-6 and col. 3, lines 42-45). Kageyama teaches the applicator including a generally cylindrical container having a reservoir for liquids therein (Figs. 1 and 5 and col. 3, lines 42-44). A dispensing orifice is at one end of the container in fluid communication with the reservoir (front portion of head part 14, Figs. 1 and 5 and col. 3, lines 45-48). Kageyama teaches a plurality of bristles, the bristles having a first end that is within the dispensing orifice and a second end located outside of and away from the dispensing orifice (brush 20, Figs. 1 and 5 and col. 3, lines 47-52). The bristles act as a partial closure for the orifice and are used to apply a liquid in the reservoir (Figs. 1 and 5 and col. 5, lines 37-42). For Claim 15, Kageyama teaches the bristles transporting liquid to a point of application (col. 5, lines 22-43). For Claim 1, Kageyama teaches a means for forcing fluid from the reservoir to the orifice (piston 22, Figs. 1 and 5 and col. 5, lines 28-42). Kageyama teaches a composition contained in the reservoir (liquid L, Figs. 1 and 5 and col. 3, lines 42-44). For Claims 14 and 15, Kageyama teaches a piston within the reservoir, movement of the piston being capable of causing liquid in the

reservoir to flow from the dispensing orifice (Figs. 1-2 and 5, col. 3, lines 50-61, col. 4, lines 11-63, and col. 5, lines 22-62). For Claims 1, 14, and 15, as to the phrase "into a mouth" in the first or second line of each claim, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987), *In re Schreiber*, 44USPQ2d 1429 (CAFC 1997), and *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967).

11. For Claim 5, Kageyama teaches the means for forcing fluid from the reservoir including a piston disposed at an end of the container opposite to the orifice, a piston rod connected to the piston and directed away from the reservoir, and a cylinder at an end of the container opposite to the bristles, which is rotatable to cause movement of the piston rod and piston towards the reservoir to force fluid therefrom (Figs. 1-2 and 5, col. 3, lines 50-61, col. 4, lines 11-63, and col. 5, lines 22-62).

12. For Claim 10, Kageyama teaches a cap covering the bristles (cap 36 and cover 38, Figs. 1 and 5 and col. 3, lines 62-67).

13. For Claim 12, Kageyama teaches the means for forcing fluid from the reservoir to the orifice including a piston within the reservoir (Figs. 1, 2, and 5, col. 3, lines 50-61, col. 4, lines 11-63, and col. 5, lines 22-62).

14. For Claim 13, Kageyama teaches the means for forcing fluid from the reservoir to the orifice including a piston and a threaded piston rod within the reservoir (Figs. 1, 2, and 5, col. 3, lines 50-61, col. 4, lines 11-63, and col. 5, lines 22-62).

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 8:30AM-5:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571)272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

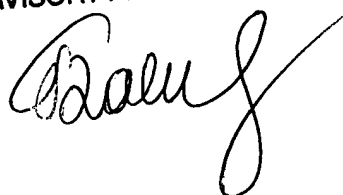
Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', written over the printed name and title.